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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

SEP 13 2001

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Amendment of Section 73.622(b) )  
Table of Allotments, )  
Digital Television Broadcast Stations )  
(Lubbock, Texas) )  
 )

MM Docket No. 01-17/  
RM-10037

To: Chief, Video Services Division  
Mass Media Bureau

**JOINT REQUEST FOR APPROVAL OF SETTLEMENT**

Cosmos Broadcasting Corporation ("Cosmos") and Panhandle Telecasting Co. ("Panhandle"), pursuant to Section 73.623(g) of the Commission's rules<sup>1</sup> and the Commission's Orders in MM Docket 87-268 (*Advanced Television Systems and Their Impact Upon the Existing Television Service*), respectfully request that the Commission grant this Joint Request for Approval of Settlement ("Joint Request"), approve the settlement proposed herein and in the DTV Interference Agreement dated September 12, 2001 (the "Agreement"), and dismiss Panhandle's petition for reconsideration (the "Panhandle Petition") of the Commission's *Report and Order*<sup>2</sup> in the above-referenced proceeding, which allotted Channel 9 to station KCBD-DT (Lubbock, Texas), licensed to Cosmos. Grant of the Joint Request would remove the potential mutual exclusivity that the *Report and Order* could have created by prohibiting the grant of the

<sup>1</sup> 47 C.F.R. § 73.623(g) (2000).

<sup>2</sup> Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations (Lubbock, Texas), *Report and Order*, MM Docket No. 01-17, RM-10037 (rel. April 23, 2001) ("*Report and Order*").

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pending construction permit application of KFDDA-DT,<sup>3</sup> licensed to Panhandle. In support of this request, the following is shown:

1. This Joint Request proposes the dismissal of the Panhandle Petition and the grant of the KCBD-DT construction permit application.<sup>4</sup> Attached hereto as Exhibit 1 is a copy of the Agreement, as Exhibit 2 is the signed letter requesting the dismissal of the Panhandle Petition, and as Exhibit 3 is a copy of the amended request for authorization for KFDDA-DT to operate as proposed in the Agreement.

2. The Agreement and this Joint Request are expressly contingent upon the Commission granting this Joint Request, approving the Agreement, dismissing the Panhandle Petition, and granting the KCBD-DT Construction Permit Application.

3. The Commission consistently has stated that it intended “to provide broadcasters with the flexibility to develop alternative [DTV] allotment approaches.”<sup>5</sup> Acknowledging that the implementation of digital television would be a dynamic process, the Commission encouraged voluntary broadcaster negotiation and coordination efforts in modifying the DTV Table of Allotments and stated that “[p]arties should be afforded as much flexibility as possible so they may address situations that may be unique to their particular circumstances.”<sup>6</sup> The Joint Request reflects the voluntary efforts of Panhandle and Cosmos to improve the DTV Table of

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<sup>3</sup> FCC File No. BPCDT-19991029ABB.

<sup>4</sup> FCC File No. BPCDT-19991019ABQ (“KCBDDT Construction Permit Application”).

<sup>5</sup> Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service, *Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order*, MM Docket 87-268, 13 FCC Rcd 7418 at ¶187.

<sup>6</sup> *Id.* at ¶147 (1998). See generally, *id.* at ¶¶141, 146-147, and *Sixth Report and Order*, 12 FCC Rcd 14588 at ¶182 (1997).

Allotments and resolve the potential mutual exclusivity. Grant of this Joint Request would serve the public interest by enhancing the new digital television broadcast services for Lubbock, Texas, Amarillo, Texas, and the surrounding communities, and conserving Commission resources in evaluating the potential mutually exclusivity.

WHEREFORE, the above premises being considered, the above-captioned petitioners respectfully request that the Commission grant this Joint Request, approve the Agreement attached hereto, dismiss the Panhandle Petition, and grant the KCBD-DT Construction Permit Application.

Respectfully submitted,

COSMOS BROADCASTING CORPORATION

PANHANDLE TELECASTING CO.

By: 

Counsel

John S. Logan, Esq.  
Scott S. Patrick, Esq.  
Dow, Lohnes & Albertson, PLLC  
1200 New Hampshire Avenue, N.W.  
Suite 800  
Washington, D.C. 20036  
202-776-2000

By: 

Counsel

David Oxenford, Esq.  
Brendan Holland, Esq.  
Shaw Pittman  
2300 N Street, N.W.  
Washington, D.C. 20037  
202-663-8000

Dated: September 13, 2001

**Joint Request Exhibit 1:**

**DTV INTERFERENCE AGREEMENT**

## **DTV INTERFERENCE AGREEMENT**

This DTV INTERFERENCE AGREEMENT (the "Agreement") is dated as of September 12, 2001, by and between Cosmos Broadcasting Company ("Cosmos") and Panhandle Telecasting Co. ("Panhandle").

### **R E C I T A L S**

- A. Cosmos is the licensee of television station KCBD-TV, NTSC Channel 11, Lubbock, Texas, pursuant to authorizations issued by the Federal Communications Commission ("FCC"); the FCC has assigned digital television ("DTV") Channel 9 to KCBD-DT pursuant to a rule making proceeding to substitute a new channel;
- B. Panhandle is the licensee of television station KFDA-TV, NTSC Channel 10, Amarillo, Texas; the FCC has assigned to KFDA-DT DTV Channel 9 and on which Panhandle has sought maximized facilities;
- C. If authorized, the maximized facilities for KFDA-DT, as proposed in the station's unamended construction permit application (FCC File No. BPCDT-19991029ABB) would create prohibited levels of interference to the facilities of KCBD-DT proposed in the station's construction permit application (FCC File No. BPCDT-19991019ABQ, as amended on May 1, 2000) (the "KCB-DT Construction Permit");
- D. The parties desire to enter into this Agreement pursuant to and in accordance with 47 C.F.R. § 73.623(g) of the FCC's rules and the FCC's policy statements regarding the DTV Transition adopted in MM Docket Number 87-268 which encourage the adoption of negotiated agreements to facilitate the implementation of DTV services.

### **A G R E E M E N T S**

In consideration of the above recitals and the mutual covenants and agreements set forth in this Agreement, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound, agree as follows:

#### **SECTION 1. REPRESENTATIONS AND WARRANTIES OF COSMOS**

Cosmos represents and warrants to Panhandle as follows:

1.1 Standing. Cosmos is a corporation duly organized, validly existing, and in good standing under the laws of South Carolina. Cosmos has all requisite corporate authority to execute and deliver this Agreement and any document contemplated hereby, and to perform and comply with all of the terms, covenants, and conditions to be performed and complied with by Cosmos hereunder and thereunder.

1.2 Authorization and Binding Obligation. Cosmos is legally qualified, empowered and authorized to enter into this Agreement, and the execution, delivery, and performance hereof shall not constitute a breach or violation of any agreement, contract or other obligation to which Cosmos is subject or by which Cosmos is bound. This Agreement has been duly executed and

delivered by Cosmos and constitutes the legal, valid, and binding obligation of Cosmos, enforceable against Cosmos in accordance with its terms.

## **SECTION 2 REPRESENTATION AND WARRANTIES OF PANHANDLE**

Panhandle represents and warrants to Cosmos as follows:

2.1 Standing. Panhandle is a general partnership duly organized, validly existing, and in good standing under the laws of the State of \_\_\_\_\_. Panhandle has all requisite authority to execute and deliver this Agreement and any document contemplated hereby, and to perform and comply with all of the terms, covenants, and conditions to be performed and complied with by Panhandle hereunder and thereunder.

2.2 Authorization and Binding Obligation. Panhandle is legally qualified, empowered and authorized to enter into this Agreement, and the execution, delivery, and performance hereof shall not constitute a breach or violation of any agreement, contract or other obligation to which Panhandle is subject or by which Panhandle is bound. This Agreement has been duly executed and delivered by Panhandle and constitutes the legal, valid, and binding obligation of Panhandle, enforceable against Panhandle in accordance with its terms.

## **SECTION 3 COVENANTS AND AGREEMENTS**

3.1 Interference to KCBD-DT. Cosmos shall accept such interference to the DTV transmissions of KCBD-DT operating on Channel 9 that may occur as a result of the construction and operation of KFDA-DT in accordance with the parameters for KFDA-DT described in Exhibit A. Cosmos shall not oppose, in any way, the application for the construction permit for KFDA-DT, or the construction and operation of KFDA-DT in accordance with such a permit, provided such application specifies the parameters for KFDA-DT described in Exhibit A and that the construction and operation of such facilities are in accordance with this Agreement.

3.2 KCBD-DT Operation on Channel 9. Cosmos shall elect Channel 11 as the permanent channel for KCBD-DT and shall surrender authorization for KCBD-DT to operate on Channel 9 at such time when KCBD-DT commences single channel operation pursuant to the FCC's policies governing the DTV Transition and KCBD(TV) discontinues NTSC operation.

3.3 Accommodation of KCBD-DT. Within five (5) business days of the execution of this Agreement and all other agreements and documents contemplated hereby, Panhandle shall request withdrawal of its Petition for Reconsideration of the Commission's Order in MM Docket No. 01-17 which allotted Channel 9 to KCBD-DT. Panhandle shall operate KFDA-DT as specified in Exhibit A so as to accommodate the operation of KCBD-DT on Channel 9. After such time as Cosmos surrenders, for any reason, its authority for KCBD-DT to operate on Channel 9, Panhandle may, at its discretion, operate KFDA-DT at parameters set forth in the unamended construction permit application in FCC File No. BPCDT-19991029ABB, or with any other facilities Panhandle so chooses on Channel 9.

3.4 No Inconsistent Action. No party hereto shall take any action that is inconsistent with its obligations under this Agreement or that could hinder or delay the other party's

enjoyment of its rights and interests contemplated by this Agreement. Notwithstanding any other provision in this Agreement to the contrary, in the event that either party violates its obligations in this Section 3 (the "Violating Party"), the other party shall have the right to seek specific performance of Violating Party's obligations hereunder.

3.5 Cooperation. Cosmos and Panhandle shall cooperate fully with each other and their respective counsel in connection with any actions required to be taken as part of their respective obligations under this Agreement, and each shall execute such other documents as may be necessary and desirable to the implementation of this Agreement, including the submission of the Agreement to the Commission. Cosmos agrees, in cooperation with Panhandle, to take all commercially reasonable actions to assist and support Panhandle in securing and the grant of the application for a construction permit for KFDD-DT, as described in Exhibit A hereto. Panhandle agrees, in cooperation with Cosmos, to take all commercially reasonable actions to assist and support Cosmos in securing the allotment of Channel 9 to Lubbock, Texas, for use by KCBD-DT and the grant of an application by Cosmos for the KCBD-DT Construction Permit.

3.6 Compensation. The parties agree that each party's performance of its obligations hereunder shall constitute full compensation for the other party's performance of its obligations hereunder and no further monetary compensation is due to either party as compensation for any interference caused to either party's DTV transmissions by actions taken pursuant to this Agreement.

#### **SECTION 4. TERM AND TERMINATION**

The term of this Agreement shall begin as of the date hereof and shall continue in effect until such time as this Agreement is terminated pursuant to this Section 4. This Agreement may be terminated either:

- (a) by either Cosmos or Panhandle, so long as the terminating party is not in material default of its obligations hereunder, upon a material breach of this Agreement by the other party, provided, however, the party in breach of this Agreement shall have 30 days from the receipt of written notice of the breach to cure such breach; or
- (b) by written agreement of Cosmos and Panhandle;
- (c) upon the issuance of final action by the FCC that is no longer subject to appeal or reconsideration and that renders this Agreement impossible to perform, including, but not limited to, a failure or refusal by the Commission to permit the withdrawal of Panhandle's above-described Petition for Reconsideration and to maintain in effect its above-described Order in MM Docket No. 01-17 without modifications adverse to Cosmos.

#### **SECTION 5 MISCELLANEOUS**

5.1 Notices. All notices, demands, and requests required or permitted to be given under the provisions of this Agreement shall be (a) in writing, (b) delivered by personal delivery, sent by commercial delivery service, facsimile transmission or registered or certified mail, return

receipt requested, (c) deemed to have been given on the date of personal delivery, the date set forth in the records of the delivery service or on the return receipt or on the date sent by facsimile with receipt confirmed by telephone, and (d) addressed as follows:

If to Panhandle: Larry Patton  
P.O. Box 708  
Lawton, OK 73502  
Phone: (580) 355-7000 Fax: (580) 357-3811

With a Copy to: David D. Oxenford  
Shaw Pittman LLP  
2300 N Street, N.W.  
Washington, D.C. 20037  
Phone: (202) 663-8000 Fax: (202) 663-8007

If to Cosmos: Mr. James M. Keelor  
President  
P.O. Box 19023  
Greenville, South Carolina 29602  
Phone: (864) 609-4370 Fax: (864) 609-3504

With a copy to: John S. Logan, Esq.  
Dow, Lohnes & Albertson, PLLC  
1200 New Hampshire Avenue, N.W., Suite 800  
Washington, D.C. 20036  
Phone: (202) 776-2000 Fax: (202) 776-2222

or to any other or additional persons and addresses as the parties may from time to time designate in a writing delivered in accordance with this Section 5.1.

5.2 Benefit and Binding Effect. Neither party may assign this Agreement without the prior written consent of the other party hereto, provided (i) that such consent may not be unreasonably withheld and (ii) each party consents, upon the receipt of written notice, to the assignment of the rights and obligations of any other party under this Agreement to any entity controlling, controlled by or under common control with such party concurrent with the assignment to such entity with requisite FCC approval of the television licenses of such party that are subject to this Agreement. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns. If either station should be assigned or transferred, as a condition of any such assignment or transfer, the party receiving such station must specifically assume all obligations hereunder. Each party agrees to cause the assumption of the obligations hereunder in connection with any assignment or transfer, and agrees not to enter into an assignment or transfer unless the assignee or transferee specifically assumes the obligations, hereunder.

5.3 Governing Law. This Agreement shall be governed, construed, and enforced in accordance with the laws of the State of Texas (without regard to the choice of law provisions thereof).



5.4 Headings. The headings herein are included for ease of reference only and shall not control or affect the meaning or construction of the provisions of this Agreement.

5.5 Entire Agreement/Amendments. This Agreement and the exhibit hereto collectively represent the entire understanding and agreement between the parties hereto with respect to the subject matter hereof and supersede all prior negotiations between the parties with respect to the subject matter hereof. This Agreement cannot be amended, supplemented, or changed except by an agreement in writing that makes specific reference to this Agreement and which is signed by the party against which enforcement of any such amendment, supplement, or modification is sought.


5.6 Counterparts. This Agreement may be signed in counterparts with the same effect as if the signature on each counterpart were upon the same instrument.

5.7 Severability. If any provision of this Agreement or the application thereof to any person or circumstances shall be invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

*[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]*

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day and year first above written.

COSMOS BROADCASTING CORPORATION

By:   
Name: James Keelor  
Title: President

PANHANDLE TELECASTING CO.

By: \_\_\_\_\_  
Name:  
Title:

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day and year first above written.

COSMOS BROADCASTING CORPORATION

By: \_\_\_\_\_  
Name: James Keelor  
Title: President

PANHANDLE TELECASTING CO.

By: \_\_\_\_\_  
Name: Wm T. O'Brien  
Title: Sec/Treas

DEL 10/2 (312203-7

## EXHIBIT A

### SPECIFIED PARAMETERS

Until such time as Cosmos Broadcasting Company ("Cosmos") surrenders authorization for KCBD-DT (Lubbock, Texas) to operate on Channel 9, pursuant to the Federal Communications Commission's ("FCC's") policies governing the DTV Transition, and commences operation of KCBD-DT exclusively on Channel 11, KFDDA-DT shall operate within the following parameters:

DTV Channel: 9

Antenna Location Coordinates: Lat.: 35 degrees 17 minutes 34 seconds North  
(NAD27) Long.: 101 degrees 50 minutes 42 seconds West

Height Above Average Terrain: 466 Meters

Effective Radiated Power: 20.8 kW Nondirectional

The parameters of KFDDA-DT may be modified in accordance with Section 73.622 of the FCC's rules, provided that the parameters of KFDDA-DT shall not be modified so as to cause greater interference to the operations of KCBD-DT on DTV Channel 9 than that caused by the operation of KFDDA-DT with the parameters specified above, except to the extent that such modification is permitted on a "checklist" application pursuant to Sections 73.622(d)(1) and 73.622(f)(3)(ii) of the Commission's Rules, in which case such modification will be permitted under the terms of this Agreement.

**Joint Request Exhibit 2:**

**DISMISSAL OF PETITION FOR RECONSIDERATION**

PANHANDLE TELECASTING CO.  
P.O. Box 10  
AMARILLO, TEXAS 79105

September 5, 2001

Magalie Roman Salas, Esq.  
Secretary  
Federal Communications Commission  
455 Twelfth Street, SW  
Washington, DC 20554

Re: Amendment of Section 73.622(b), Table of Allotments  
Digital Television Broadcast Stations (Lubbock, Texas)  
MM Docket No. 01-17  
RM-10037  
Request for Dismissal of Petition for Reconsideration

Dear Ms. Salas:

Panhandle Telecasting Co. ("Petitioner"), licensee of KFDD-TV (Amarillo, Texas), respectfully requests that the Commission dismiss its petition for reconsideration of the Commission's *Report and Order* in the above-referenced proceeding in which it allotted Channel 9 to KCBD-DT (Lubbock, Texas). This request for dismissal is being filed in connection with a Joint Request for Approval of Settlement, a copy of which is being filed with this request for dismissal, which Petitioner entered into to resolve a potential mutual exclusivity with KCBD-DT resulting from the grant of the *Report and Order*. Petitioner submits that dismissal of its petition would serve the public interest.

PANHANDLE TELECASTING CO.

By: 

Name: Wm T. O'Brien

Title: Sec/Gen

Date: 9/5/01

cc: Clay C. Pendarvis  
Mully Fitzgerald  
John Morgan

## DECLARATION

PANHANDLE TELECASTING CO., INC. ("Panhandle"), hereby declares as follows:

1. Panhandle is the licensee of television station KFDA-TV, Amarillo, Texas, (FIN-51466).
2. Panhandle filed a Petition for Reconsideration ("Petition") of the Commission's *Report and Order* in the Matter of Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations (Lubbock, Texas), MM Docket No. 01-17, RM-10037. By that rule making proceeding, the Commission allotted Channel 9 to KCBD-DT (Lubbock, Texas).
3. Panhandle is simultaneously herewith requesting that the Commission dismiss its Petition for Reconsideration in connection with a Joint Request for Approval of Settlement, which Panhandle entered into with Cosmos Broadcasting Corporation ("Cosmos"), the licensee of KCBD-TV. The Settlement Agreement by and between Panhandle and Cosmos resolves a potential mutual exclusivity between KFDA-DT and KCBD-DT resulting from the grant of the *Report and Order*. Panhandle's Petition was not filed for the purpose of reaching or carrying out a settlement agreement.
4. Other than as set forth in the Settlement Agreement, neither Panhandle nor any of its principals has paid, received, promised, or been promised any other consideration in connection with the dismissal of its Petition for Reconsideration.
5. Approval of the attached Settlement Agreement will serve the public interest by saving substantial time and resources of the parties and the FCC and by hastening the initiation of digital television service to the communities of Lubbock and Amarillo, Texas.

I declare under penalty of perjury that the foregoing is true and correct. Executed on September 5, 2001.

PANHANDLE TELECASTING CO., INC.

By:   
Shaw Pittman

Document # 1159707 v 1

**Joint Request Exhibit 3:**

**AMENDMENT TO KFDA-DT CONSTRUCTION PERMIT APPLICATION**

(original FCC File No.BPCDT-19991029ABB;  
amendment submitted September 12, 2001)



**FCC MMB - CDBS Electronic Filing**  
**Application Reference Number: 19991029ABB**  
**Successfully filed at Sep 12 2001 5:36PM**

[Menu](#)

Federal Communications Commission Washington, D.C. 20554	Approved by OMB 3060-0027 (May 1999)	FOR FCC USE ONLY
<b>FCC 301</b>		
<b>APPLICATION FOR CONSTRUCTION PERMIT FOR COMMERCIAL BROADCAST STATION</b>		FOR COMMISSION USE ONLY FILE NO.
Read INSTRUCTIONS Before Filling Out Form		

**Section I - General Information**

1.	Legal Name of the Applicant PANHANDLE TELECASTING CO.		
	Mailing Address P.O. BOX 10		
	City AMARILLO	State or Country (if foreign address) TX	ZIP Code 79105 -
	Telephone Number (include area code) 8063831010	E-Mail Address (if available)	
		Call Sign KFDA-DT	Facility Identifier 51466
2.	Contact Representative (if other than applicant) DAVID D. OXENFORD		Firm or Company Name SHAW PITTMAN LLP
	Telephone Number (include area code) 2026638000	E-Mail Address (if available) DAVID.OXENFORD@SHAWPITTMAN.COM	
3.	If this application has been submitted without a fee, indicate reason for fee exemption (see 47 C.F.R. Section 1.1114): <input type="radio"/> Governmental Entity <input checked="" type="radio"/> Other NONFEEABLE AMENDMENT		
4.	<b>Application Purpose</b> <input type="radio"/> New station <input type="radio"/> Major Change in licensed facility <input type="radio"/> Minor Change in licensed facility <input type="radio"/> Major Modification of construction permit <input type="radio"/> Minor Modification of construction permit <input type="radio"/> Major Amendment to pending application <input checked="" type="radio"/> Minor Amendment to pending application  (a) File number of original construction permit: BPCDT-19991029ABB <input type="checkbox"/> NA  (b) Service Type: <input type="radio"/> AM <input type="radio"/> FM <input type="radio"/> TV <input checked="" type="radio"/> DTV  (c) Community of License: City: AMARILLO      State: TX  (d) Facility Type <input checked="" type="radio"/> Main <input type="radio"/> Auxiliary  If an amendment, submit as an Exhibit a listing by Section and Question Number the portions of the pending application that are being revised. [Exhibit 1]		

**NOTE:** In addition to the information called for in this section, an explanatory exhibit providing full particulars must

be submitted for each question for which a "No" response is provided.

## Section II - Legal

1.	<b>Certification.</b> Applicant certifies that it has answered each question in this application based on its review of the application instructions and worksheets. Applicant further certifies that where it has made an affirmative certification below, this certification constitutes its representation that the application satisfies each of the pertinent standards and criteria set forth in the application instructions and worksheets.	<input checked="" type="radio"/> Yes <input type="radio"/> No
2.	<p><b>Parties to the Application.</b></p> <p>a. List the applicant, and, if other than a natural person, its officers, directors, stockholders with attributable interests, non-insulated partners and/or members. If a corporation or partnership holds an attributable interest in the applicant, list separately its officers, directors, stockholders with attributable interests, non-insulated partners and/or members. Create a separate row for each individual or entity. Attach additional pages if necessary.</p> <p>(1) Name and address of the applicant and, (2) Citizenship. if applicable, its officers, directors, stockholders, or partners (if other than individual) also show name, address and citizenship of natural person authorized to vote the stock). List the applicant first, officers next, then directors and, thereafter, remaining stockholders and partners. [Enter Parties/Owners Information]</p> <p>(3) Positional Interest: Officer, director, general partner, limited partner, LLC member, etc (4) Percentage of votes. (5) Percentage of equity.</p>	
	b. Applicant certifies that equity interests not set forth above are non-attributable.	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A See Explanation in [Exhibit 2]
3.	<b>Other Authorizations.</b> List call signs, locations, and facility identifiers of all other broadcast stations in which applicant or any party to the application has an attributable interest.	<input type="checkbox"/> N/A [Exhibit 3]
4.	<p><b>Multiple Ownership.</b></p> <p>a. Applicant certifies that the proposed facility:</p> <ol style="list-style-type: none"> <li>1. complies with the Commission's multiple and cross-ownership rules;</li> <li>2. does not present an issue under the Commission's cross-interest policy;</li> <li>3. does not present an issue under the Commission's policies relating to media interests of immediate family members;</li> <li>4. complies with the Commission's policies relating to future ownership interests; and</li> <li>5. complies with the Commission's restrictions relating to the insulation and non-participation of non-party investors and creditors.</li> </ol> <p>b. Radio Applicants Only. If the grant of the application would result in certain principal community service contour overlaps, see Local Radio Ownership Worksheet, Question 1, applicant certifies that all relevant information has been placed in public inspection file(s) and submitted to the Commission.</p>	<input type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 4]  <input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A See Explanation in [Exhibit 5]
5.	<p><b>Character Issues.</b> Applicant certifies that neither applicant nor any party to the application has or has had any interest in or connection with:</p> <p>a. any broadcast application in any proceeding where character issues were left unresolved or were resolved adversely against the applicant or party to the application; or</p> <p>b. any pending broadcast application in which character issues have been raised.</p>	<input type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 6]

6. <b>Adverse Findings.</b> Applicant certifies that, with respect to the applicant and any party to the application, no adverse finding has been made, nor has an adverse final action been taken by any court or administrative body in a civil or criminal proceeding brought under the provisions of any law related to any of the following: any felony; mass media-related antitrust or unfair competition; fraudulent statements to another government unit; or discrimination.	<input type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 7]
7. <b>Alien Ownership and Control.</b> Applicant certifies that it complies with the provisions of Section 310 of the Communications Act of 1934, as amended, relating to interests of aliens and foreign governments.	<input type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 8]
8. <b>Program Service Certification.</b> Applicant certifies that it is cognizant of and will comply with its obligations as a commission licensee to present a program service responsive to the issues of public concern facing the station's community of license and service area.	<input type="radio"/> Yes <input type="radio"/> No
9. <b>Local Public Notice.</b> Applicant certifies that it has or will comply with the public notice requirements of 47 C.F.R. Section 73.3580.	<input type="radio"/> Yes <input type="radio"/> No
10. <b>Auction Authorization.</b> If the application is being submitted to obtain a construction permit for which the applicant was the winning bidder in an auction, then the applicant certifies, pursuant to 47 C.F.R. Section 73.5005(a), that it has attached an exhibit containing the information required by 47 C.F.R. Sections 1.2107(d), 1.2110(i), 1.2112(a) and 1.2112(b), if applicable.  An exhibit is required unless this question is inapplicable.	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A [Exhibit 9]
11. <b>Anti-Drug Abuse Act Certification.</b> Applicant certifies that neither applicant nor any party to the application is subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. Section 862.	<input checked="" type="radio"/> Yes <input type="radio"/> No

I certify that the statements in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith. I acknowledge that all certifications and attached Exhibits are considered material representations. I hereby waive any claim to the use of any particular frequency as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and request an authorization in accordance with this application. (See Section 304 of the Communications Act of 1934, as amended.)

Typed or Printed Name of Person Signing ROBERT H. DREWRY	Typed or Printed Title of Person Signing VICE PRESIDENT
Signature	Date 9/5/2001

### SECTION III-D - DTV ENGINEERING DATA

Complete Questions 1-5 of the Certification Checklist and provide all data and information for the proposed facility, as requested in Technical Specifications, Items 1-13.

**Certification Checklist:** A correct answer of "Yes" to all of the questions below will ensure an expeditious grant of a construction permit. However, if the proposed facility is located within the Canadian or Mexican borders, coordination of the proposal under the appropriate treaties may be required prior to grant of the application. An answer of "No" will require additional evaluation of the applicable information in this form before a construction permit can be granted.

1. The proposed DTV facility complies with 47 C.F.R. Section 73.622 in the following respects:	
(a) It will operate on the DTV channel for this station as established in 47 C.F.R. Section 73.622.	<input checked="" type="radio"/> Yes <input type="radio"/> No
(b) It will operate from a transmitting antenna located within 5.0 km (3.1 miles) of the DTV reference site for this location as established in 47 C.F.R. Section 73.622.	<input checked="" type="radio"/> Yes <input type="radio"/> No
(c) It will operate with an effective radiated power (ERP) and antenna height above average terrain (HAAT) that do not exceed the DTV reference ERP and HAAT for this station as established in 47 C.F.R. Section 73.622.	<input type="radio"/> Yes <input checked="" type="radio"/> No
2. The proposed facility will not have a significant environmental impact, including exposure of workers or the general public to levels of RF radiation exceeding the applicable health and safety guidelines, and therefore will not come within 47 C.F.R. Section 1.1307. Applicant must submit the Exhibit called for in Item 13.	<input checked="" type="radio"/> Yes <input type="radio"/> No
3. Pursuant to 47 C.F.R. Section 73.625, the DTV coverage contour of the proposed facility will encompass the allotted principal community.	<input checked="" type="radio"/> Yes <input type="radio"/> No
4. The requirements of 47 C.F.R. Section 73.1030 regarding notification to radio astronomy installations, radio receiving installations and FCC monitoring stations have either been satisfied or are not applicable.	<input checked="" type="radio"/> Yes <input type="radio"/> No
5. The antenna structure to be used by this facility has been registered by the Commission and will not require registration to support the proposed antenna, OR the FAA has previously determined that the proposed structure will not adversely effect safety in air navigation and this structure qualifies for later registration under the Commission's phased registration plan, OR the proposed installation on this structure does not require notification to the FAA pursuant to 47 C.F.R. Section 17.7.	<input checked="" type="radio"/> Yes <input type="radio"/> No

**SECTION III-D - DTV Engineering****TECHNICAL SPECIFICATIONS**

Ensure that the specifications below are accurate. Contradicting data found elsewhere in this application will be disregarded. All items must be completed. The response "on file" is not acceptable.

**TECH BOX**

1.	Channel Number: DTV 9 Analog TV, if any 10
2.	Zone: I <input type="radio"/> II <input checked="" type="radio"/> III <input type="radio"/>
3.	Antenna Location Coordinates: (NAD 27) Latitude: Degrees 35 Minutes 17 Seconds 34 <input checked="" type="radio"/> North <input type="radio"/> South Longitude: Degrees 101 Minutes 50 Seconds 42 <input checked="" type="radio"/> West <input type="radio"/> East
4.	Antenna Structure Registration Number: 1052115 <input type="checkbox"/> Not Applicable <input type="checkbox"/> Notification filed with FAA
5.	Antenna Location Site Elevation Above Mean Sea Level: 1082 meters
6.	Overall Tower Height Above Ground Level: 456 meters
7.	Height of Radiation Center Above Ground Level: 443 meters
8.	Height of Radiation Center Above Average Terrain: 466 meters
9.	Maximum Effective Radiated Power: 20.8 kW

## 10. Antenna Specifications:

a. Manufacturer GE Model 4TY53A2

b. Electrical Beam Tilt:

0.5 degrees ☐ Not Applicable

c. Mechanical Beam Tilt:

degrees toward azimuth

degrees True ☒ Not Applicable

Attach as an Exhibit all data specified in 47 C.F.R. Section 73.685.

[Exhibit 39]

d. Polarization:

☒ Horizontal ☐ Circular ☐ Ellipticale. Directional Antenna Relative Field Values: ☒ Not applicable (Nondirectional)

[For a composite directional (not off-the-shelf) antenna, press the following button to fill in the relative field values subform.]

[Relative Field Values]

## 10e. Directional Antenna Relative Field Values

[Fill in this subform for a composite directional (not off-the-shelf) antenna, only.]

e. Directional Antenna Relative Field Values:

Rotation (Degrees): 0 ☐ No Rotation

Degrees	Value	Degrees	Value	Degrees	Value	Degrees	Value	Degrees	Value	Degrees	Value
0		10		20		30		40		50	
60		70		80		90		100		110	
120		130		140		150		160		170	
180		190		200		210		220		230	
240		250		260		270		280		290	
300		310		320		330		340		350	
Additional Azimuths											

If a directional antenna is proposed, the requirements of 47 C.F.R. Sections 73.625(c) must be satisfied. **Exhibit required.**

[Exhibit 40]

11. Does the proposed facility satisfy the interference protection provisions of 47 C.F.R. Section 73.623(a)? (Applicable only if Certification Checklist items 1(a), (b), or (c) are answered "No".)

☒ Yes ☐ No

[Exhibit 41]

If No, attach as an Exhibit justification therefore, including a summary of any previously granted waivers.

12. If the proposed facility will not satisfy the coverage requirement of 47 C.F.R. Section 73.625, attach as an Exhibit justification therefore. (Applicable only if Certification Checklist item 3 is answered "No".)

[Exhibit 42]

13. **Environmental Protection Act.** Submit in an Exhibit the following: [Exhibit 43]

If Certification Checklist Item 2 is answered "Yes," a brief explanation of why an Environmental Assessment is not required. Also describe in the Exhibit the steps that will be taken to limit RF radiation exposure to the public and to persons authorized access to the tower site.

By checking "Yes" to Certification Checklist Item 2, the applicant also certifies that it, in coordination with other users of the site, will reduce power or cease operation as necessary to protect persons having access to the site, tower or antenna from radiofrequency electromagnetic exposure in excess of FCC guidelines.

If Certification Checklist Item 2 is answered "No," an Environmental Assessment as required by 47 C.F.R Section 1.1311.

**PREPARERS CERTIFICATION ON PAGE 3 MUST BE COMPLETED AND SIGNED.**

### SECTION III - PREPARER'S CERTIFICATION

I certify that I have prepared Section III (Engineering Data) on behalf of the applicant, and that after such preparation, I have examined and found it to be accurate and true to the best of my knowledge and belief.

Name ROY P. STYPE, III	Relationship to Applicant (e.g., Consulting Engineer)	
Signature	Date 9/5/2001	
Mailing Address 2324 N. CLEVELAND-MASSILLON ROAD P. O. BOX 807		
City BATH	State or Country (if foreign address) OH	Zip Code 44210 - 0807
Telephone Number (include area code) 3306594440		E-Mail Address (if available)

WILLFUL FALSE STATEMENTS ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001), AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. CODE, TITLE 47, SECTION 312(a)(1)), AND/OR FORFEITURE (U.S. CODE, TITLE 47, SECTION 503).

#### Exhibits

##### Exhibit 1

Description: PURPOSE OF AMENDMENT

THE INSTANT AMENDMENT AMENDS SECTION III-D DTV ENGINEERING IN ORDER TO MODIFY THE EFFECTIVE RADIATED POWER PROPOSED FOR THE STATION.

##### Exhibit 41

Description: INTERFERENCE STUDIES

DETAILED INTERFERENCE STUDIES WILL BE SUBMITTED AS A FURTHER AMENDMENT TO THIS APPLICATION.

**Exhibit 43**

**Description:** NONIONIZING RADIATION COMPLIANCE

**Attachment 43**

Description	Type
Nonionizing Radiation Compliance	Adobe Acrobat File



EXHIBIT 43  
(Page 1 of 2)

NONIONIZING RADIATION COMPLIANCE  
Panhandle Telecasting Company  
Amarillo, TX

The proposed KFDA-DT operating facilities will fully comply with the current FCC Standard with regard to human exposure to nonionizing radiation. KFDA-DT will operate with a nondirectional effective radiated power of 20.8 kilowatts and be combined into the existing antenna employed by the Channel 10 analog operation of KFDA-TV, which is mounted with its center of radiation located 443 meters above ground level.

Equation (2), found on Page 30 of Supplement A to OET Bulletin 65, details the calculation technique used to determine the power density at the base of a TV broadcast tower. In this case, however, it is necessary to substitute the proposed average DTV effective radiated power (20.8 kilowatts) for the expression  $[0.4ERP_v + ERP_d]$  in this equation to compensate for the fact that DTV power levels are expressed in terms of average power, rather than peak power, as is the case for the visual portion of an analog TV signal. Assuming, as a worst case, 100% downward radiation and substituting these values into this equation yields a predicted maximum power density at two meters above ground level of  $3.57 \mu\text{W}/\text{cm}^2$ . Since the maximum permitted power density for uncontrolled exposure on TV Channel 10 is  $200 \mu\text{W}/\text{cm}^2$ , this amounts to only 1.79% of the permitted level for uncontrolled exposure. Since this is less than 5% of the permitted level, the proposed facilities are excluded from environmental processing and need not be considered in conjunction with the other co-located and nearby facilities to establish compliance with this standard for uncontrolled exposure.

The proposed facility, in conjunction with these other co-located and nearby facilities, will also take appropriate steps to insure that workers who must climb this tower

Carl E. Smith Consulting Engineers

**EXHIBIT 43**  
**(Page 2 of 2)**

will not be exposed to power densities exceeding the permitted levels for controlled exposure. This will include a reduction in power or the cessation of operation, as appropriate, by this proposed DTV facility and/or the other co-located or facilities at any time that workers must be on this tower in any area where the total power density exceeds the permitted level for controlled exposure.

**Carl E. Smith Consulting Engineers**